

**755.0000 STATE-ASSESSED PROPERTY**

**755.0001 Assessment.** Pursuant to section 19 of article XIII of the California Constitution, the Board's obligation is to assess "all property" in this State owned or used by the specified regulated utilities. Therefore, if such a utility neither owns nor uses any property in California, there is no property to assess and the Board need not adopt a zero value assessment. C 10/23/97.

**755.0002 Business Inventory Exemption.** A public utility may not qualify for the exemption merely because it is a licensed contractor. C 2/11/80.

**755.0003 Business Inventory Exemption.** Materials and supplies are eligible for the exemption when used by private car companies to maintain and repair private railcars (personalty) that are held for rental to railroads are eligible for the business inventory exemption. C 10/24/96.

**755.0005 Change In Ownership.** Since properties on the State-assessed roll are not subject to the provisions of article XIII A of the California Constitution, changes in the ownership of such properties are not cause for reappraisal as of the date of sales by State assessees to other State assessees.

When State-assessed property changes ownership and, thereafter, is transferred to the local roll, the property should be reappraised as of the date of the change in ownership. The new base year value or the current market value of the property, whichever is less, should be placed on the local roll. C 11/1/95; C 10/31/96.

**755.0010 Corporate Signatory.** An employee of a corporation who is authorized by the corporation to sign property statements is not necessarily also authorized to sign statute of limitation waiver forms on behalf of the corporation. An employee's authority to sign a waiver form need not be in the form of a "power of attorney" but may be implied from a general authorization to bind the corporation in all tax matters. Authority to waive a statute of limitations should be carefully reviewed because the signing of a waiver could lead to a delay in making an escape assessment beyond the time limitations period and, thus, bar the escape assessment. C 2/6/85.

**755.0015 Escape Assessment Under Consideration.** Once a decision affecting the property of an assessee has been made by the State Board of Equalization, the assessee is entitled to notice of the action and has the right to be heard in appeal of that action. However, a state assessee does not have an absolute right to address the Board at the time an escape assessment against it is under consideration. C 3/8/79.

**755.0020 Failure to File.** The penalty provided for in Revenue and Taxation Code section 830(c)(5) for failure to timely file the various parts of the property statement is applicable to each of the failures described in subparagraphs (c)(1), (2), (3), and (4). The penalty limitation is not cumulative. C 7/27/84.

**755.0023 Foreign Improvements.** "Foreign improvements" are those improvements located on land owned by another person. When the land is owned by a state assessee and is sold to another state assessee but no sale of locally-assessed "foreign improvements" occurs, reappraisal of the "foreign improvements" would not be proper because there has been no change in ownership of the improvements. C 7/17/97.

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**755.0025 Historical Property.** Utility-owned, non-operating properties of historical significance which are subject to governmental restrictions should be assessed by the Board and valued with due regard to the restrictions. C 8/12/94.

**755.0045 Leased to the State.** On the lien date, certain real property owned by a railway company is leased to CalTrans. The property is assessable to the railway company. Property owned by a private for-profit organization does not become exempt because it is leased to a government agency. The exemptions provided by Revenue and Taxation Code sections 214.6 and 231 are not applicable because the railway company is not a non-profit organization described in those sections. C 5/12/98.

**755.0050 Lessor's Exemption Claims.** The State Board of Equalization has no statutory authority to grant exemptions from taxation on State-assessed property where the Lessor's Exemption Claim form must be filed. This power lies with the several county assessors. Therefore, state assessees are to file Lessors' Exemption Claim forms with the assessor of the county in which the property lies. They should also file a copy of their exemption claim with the Board.

Each assessor receiving an exemption claim relating to State-assessed property should act upon such claim in the same manner as he would act upon claims relating to locally assessed property and should forward a copy of the claim to the Board's Valuation Division stating whether the claim has been granted or denied, in whole or in part. C 2/17/78.

**755.0060 Mobile Radio Property.** A company providing mobile radio services to the general public must be licensed as a communications common carrier in order to qualify as a "regulated telephone company" under article XIII, section 19 of the California Constitution. The fact that a company supplies communication services to a significant portion of the public is not, in itself, a sufficient basis for its property to be state assessed. C 5/10/94.

**755.0070 One-Way Paging Companies.** Traditionally, the Board, in its capacity as the assessor of "regulated telephone companies" pursuant to the assessment jurisdiction conferred by article XIII, section 19 of the California Constitution, has interpreted "regulated telephone companies" to mean telephone companies that are classified as public utilities by the California Public Utilities Commission (CPUC) or by the Federal Communications Commission (FCC). Effective January 1, 1996, Public Utilities Code section 234(b)(2) was amended to exclude from the definition of "telephone corporation" one-way paging services utilizing facilities that are licensed by the FCC. The CPUC has not issued a final determination regarding what constitutes a one-way paging service but, in the absence of a final determination by the CPUC, beginning with the 1996 lien date, one-way paging companies that are not otherwise subject to assessment by the Board will be assessed by county assessors. The Board will retain assessment jurisdiction over companies that are not exclusively engaged in one-way paging services, for example, companies that provide both one-way and two-way mobile telephone services. LTA 3/28/96 (No. 96/25).

**755.0075 Penalty and Interest Calculations.** When audit results indicate there has been taxpayer reporting that caused the Board to overvalue and undervalue certain properties, only the net value added as an escape assessment to the roll should be used as the basis for calculating penalty and interest. An amount in lieu of interest shall be calculated as provided in Revenue and Taxation Code section 864, and imposed on the escape assessment only to the extent that the escape exceeded errors *not* caused by taxpayer errors and Board errors involving an erroneous opinion of value. C 11/2/89.

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**755.0080 Petition for Reassessment.** A petition for reassessment filed under Revenue and Taxation Code section 741 is inadequate and does not meet the requirements of the law unless it enumerates the errors in staff computations and/or approach and apprises the State Board of Equalization of the dollar amounts requested by the petitioner. C 5/30/78.

**755.0081 Pipeline Property.** The property of a pipeline company used to transport gas is to be State assessed only if the company operates as a public utility. Property owned by a subsidiary of a state assessee is not assessed by the State unless the subsidiary is itself a public utility. C 9/23/92; C 8/26/93.

**755.0082 Pipeline Property.** Line pipe connected to and part of a pipeline assessed by the Board has been assessed by the Board if it has been fully used, partially used, or unused but available for use, if needed. If an unused portion of line pipe has been disconnected from the pipeline, assessment jurisdiction of that line pipe reverts to the appropriate county assessor.

Whether terminal facilities and storage facilities/tanks are assessable by the Board, however, is dependent upon whether they are essential and necessary to the operation of intercounty pipelines, factual questions which must be decided on the basis of the evidence pertaining to such facilities/tanks. C 3/23/94.

**755.0083 Pipeline Property.** The Board assesses only those non-public, utility-owned properties that constitute a part of a pipeline, exclusive of associated land and rights-of-way. However, when the pipeline is owned by a regulated utility using it in the transmission or sale of gas, then the land, rights-of-way, and all other property owned or used by the public utility would be state assessed. C 6/24/93; C 9/15/94.

**755.0084 Pipeline System.** The California Supreme Court, in *General Pipe Line Co. v. State Board of Equalization* (1936) 5 Cal.2d 253, held that it was the Board's duty under the California Constitution to assess all inter-county pipe lines and defined a pipe line to include not only the pipe, but the pumps, boilers, engines, and other appurtenances necessary to the pipe line's proper functioning as such. Breakout tanks are tanks used to relieve surges and to receive and store product for re-injection and continued transportation by pipe lines. The Board has assessment jurisdiction over breakout tanks as such tanks are parts of pipe lines and are essential and necessary to the use and operation of the pipe lines. C 10/4/2001.

**755.0085 Property Subject to Assessment.** A building that is leased and at least partially used by a state assessee is subject to assessment by the State Board of Equalization, even though portions of the building may be subleased to a non-state assessee. If, however, the lease requires the taxes to be paid by the lessor, who is a local assessee, then the Board may delegate the duty to assess to the county assessor pursuant to the last paragraph of section 19 of article XIII of the California Constitution. C 5/2/96.

**755.0089 Record Inspection.** The allocated values of State-assessed properties constitute "appraisal data" open to the "assessor" and "duly authorized" employees of that office referred to in Revenue and Taxation Code section 833. C 8/22/96.

**755.0090 Special Franchises.** Special franchises are taxable and must be valued. Since the fee ownership of the property used is in a tax-exempt government entity and the use is by a private taxable party, such franchises can be categorized as taxable possessory interests and must be valued as such. Under *Deluz Homes, Inc. v. San Diego County*, 45 Cal.2d 546, the full value of the right to use is taxable with only the reversion being exempt. One

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way to measure this value is to capitalize an economic rent for the private right to use the government property for the term of possession. C 4/18/79.

### 755.0091 **Special Franchises.**

1. Special franchises are an integral component of the utility's distribution system. As such, they will be appraised as unitary and operating property of the utility. They are an element of the operating unit.
2. *Deluz Homes, Inc. v. San Diego County*, 45 Cal.2d 546, is a judicial mandate to employ a precise appraisal method to establish the full value of any possessory interest. The Deluz decision controls the standard of "full value" and is applicable to utility special franchises.
3. The State Board of Equalization is required to assess the special franchises in its regular manner. The special franchise is, for all practical purposes, an easement in otherwise tax-exempt property and is a possessory interest within the meaning of Revenue and Taxation Code section 107.
4. Franchise fees represent amortization or rent of a possessory interest and are not an expense for valuation purposes.
5. All special franchises are appraised in the same manner as other possessory interests assessed by the State Board of Equalization. The distinction between Property Tax Rules 25 and 26 will be applicable. C 5/3/77.

755.0100 **Stock and Debt Method.** The stock and debt value indicator does not include either the value of a special franchise or a general franchise because these property rights constitute a continuing obligation of the company. The right to do business in California is a continuing obligation that must be renewed annually. The most a stock investor buys is the "expectation" of doing business in California, and it is this expectation which is included in the stock price, not the right to do business. This expectation is as much a taxable entity as any other motive would be for paying a certain price. It is not a portion of the exempt general franchise. C 4/18/79.

755.0110 **Telephone Companies.** Under paragraph (2) of section 19 of article XIII of the California Constitution, the Board's assessment jurisdiction extends to all property owned or used by various types of public utility companies, including telephone companies that are regulated. The Board has interpreted the term "regulated" to mean telephone companies that are regulated by the California Public Utilities Commission (CPUC) as public utilities, or by a comparable federal commission or board, such as the Common Carrier Bureau of the Federal Communications Commission (FCC). If a regulated telephone company owns or leases property in the state, including a telephone reseller that has its own switching system in California, that property is subject to Board assessment.

Each telephone company is separately evaluated by the Board to determine for jurisdictional purposes whether it: (1) is regulated by the CPUC or the FCC, and (2) owns or leases property. The evaluation of each company as a separate entity is necessary in order to determine whether the jurisdictional criteria in section 19 have been met. The "separate entity theory" gives effect to the laws of the state that endow corporations, partnerships, limited liability companies, and similar entities with an identity separate from its owners. Whether or not one corporation is wholly-owned by another (subsidiary-parent relationship), respect for the separate identity of each legal entity is basic to the administration and

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enforcement of state law, including the determination of assessment jurisdiction. C 10/30/2000.

**755.0120 Transfer to Board Roll.** Property acquired by a state assessee through purchase or lease becomes subject to assessment by the State Board of Equalization at the time of the transfer of ownership or use; however, the property remains on the local roll until the next lien date. No supplemental assessments should be issued for the change in ownership because the property becomes subject to the Board's assessment jurisdiction as of the transfer date to the state assessee pursuant to section 19 of article XIII of the California Constitution. Any new construction that occurs between the date of transfer to the state assessee and the ensuing lien date is under the Board's assessment jurisdiction. The new construction will be state-assessed as of the next lien date and placed on the Board roll thereafter. C9/11/2000.

**755.0125 Transfer to Local Roll.** A transfer of a lease that was for an original term of less than 35 years by a state assessee to a non-state assessee requires that the leased property be locally assessed at its 1975 fair market value adjusted by the annual inflation factor. C 8/29/85.

**755.0126 Transfer to Local Roll.** The sale by grant deed of a multiple parcel property by a state assessee to a locally-assessed taxpayer, subject to an option agreement whereby the state assessee may repurchase one parcel, does not result in retention of beneficial ownership in the optioned parcel by the seller. Thus, the entire property conveyed by the grand deed becomes locally assessed. C 3/24/2000.

**755.0128 Tribal Tax on State-Assessed Utility Property on Indian Land.** Where property owned and used by a public utility traverses Indian land, that property may be assessed by both the State Board of Equalization for local property taxation and be subject to a property tax imposed by the Indian tribe without violating the prohibition against double taxation. Double taxation occurs only when two taxes of the same character are imposed on the same property, for the same purpose, by the same taxing authority, within the same jurisdiction and during the same taxing period. C 1/9/98.

**755.0130 Value Adjustments.** Each year the Board adopts unitary values for all state assessees. As a result, the only means for a correction to be made to the Board roll, whether as the result of an appeal of the unitary assessment by an assessee or as the consequence of an audit of an assessee by Board staff, is by the approval of the Board. In other words, once a unitary value has been adopted by the Board, only a vote of the Board can change a value on the Board roll. C 7/15/2003.

**755.0135 Water Rights.** Water rights owned by a city in another county are not part of a flume, canal, ditch or aqueduct that is assessable by the Board but, rather, are assessable by the county assessor pursuant to section 11 of article XIII of the Constitution. C 10/22/84.